

DECLARATION OF GREGORY R. VAWTER

1. I, Gregory R. Vawter, declare as follows:
2. My name is Gregory R. Vawter. I am over the age of twenty-one and fully competent to make this declaration. I am a resident of the state of Ohio. My home address is 11590-B Mill Road, Forest Park, OH, 45240-2136. The statements contained in this declaration are within my personal knowledge or opinion, and each is true and correct.
3. I have been asked by the staff of the Alliance for Community Media to describe how a cable company serving several local franchising authorities on one cable system narrowcasts different channels to certain communities within its multi-jurisdictional service area.
4. I am employed by Warner Cable Communications of Greater Cincinnati, Inc., ("Warner Cable") as community access manager for the City of Forest Park, the Village of Greenhills and Springfield Township in Hamilton County, Ohio. Public, educational and governmental access is provided on Warner Cable systems in compliance with those communities' cable franchises. Warner Cable operates more than fifty adjacent cable franchises in the four Ohio counties (Hamilton, Butler, Cleremont, Warren) surrounding Cincinnati. The franchise agreements are authorized by Section 611 of the Cable Act of 1984 (47 U.S.C. § 531).
5. Since 1982, Warner Cable has distributed television programming signals to most Greater Cincinnati jurisdictions from the same cable headend located in Blue Ash, Ohio. For the past five years, two of those local jurisdictions, the City of Cincinnati, Ohio, and Anderson Township, Ohio, have received their own different cable access channels than the rest of the Greater Cincinnati system, while all other channels were identical.
6. Warner Cable carries different programming in Cincinnati than in the suburbs on four channels: Public Access channels 10 and 24, Educational Access channel 15, and Government Access channel 23. The city and suburbs still share programming on Metro Access channel 7, except in Anderson Township. That community receives "suburban" channels 10, 15, 23 and 24, but programs its own channel 7.
7. The segregation of access channels by community was accomplished by designing a "hub and spoke" cable system for the region to the geographic boundaries of each local community, inserting different access channels for those localities requiring them, and distributing the appropriate channel lineups to the trunk cables feeding those branches (or spokes) of the system.
8. In its current round of refranchising, Warner Cable president Virgil Reed, in several public meetings with local officials, has proposed even more elaborate sub-jurisdictional configuration of the of access channels on its system.
9. Mr. Reed has stated that for its next system upgrade, Warner Cable plans to segregate distribution of educational access channels by school district in addition to Public and Government access by local government jurisdiction. These overlapping "nodes" of locally distributed signals have given the company a rationale for proposing that local schools and governments administer access for their own jurisdictions, instead of being administered by Warner Cable. I and other members of the community support this devolution of administrative responsibility.

10. Based on the foregoing, I conclude that telephone company objections to delivering PEG (or any other signals) to customers on a franchise-by-franchise basis are unsubstantiated and unwarranted. Cable companies using present technologies are already offering such services and have expressed no business-related objection to continuing to provide them.

I declare under penalty of perjury that the above is true and correct. Signed the 29th day of March, 1996, in Washington, DC.


Gregory R. Yawter

APPENDIX C

DECLARATION OF DALE N. HATFIELD

1. I, Dale N. Hatfield, declare as follows:
2. My name is Dale N. Hatfield. I am over the age of twenty-one and fully competent to make this Declaration. The statements contained in this Declaration are within my personal knowledge or opinion, and each is true and correct.
3. I am the chief executive officer of Hatfield Associates, Inc., a consulting firm specializing in engineering and economic studies, market research, policy and regulation, and strategic planning in telecommunications. I have been involved in the telecommunications industry in the United States for more than thirty years. My experience and training range from acting as an advisor in the Executive Office of the President of the United States to serving as Chief of the Office of Plans and Policy of the Federal Communications Commission ("FCC") to serving as Acting Assistant Secretary of Commerce for Communications and Information. I have also been involved in the development of advanced education programs and courses in the telecommunications field in conjunction with major universities, including the University College at the University of Denver, the University of Colorado at Boulder, and Pace University in White Plains, N.Y. I am also a Senior Fellow of Northwestern University's Annenberg Washington Program in Telecommunications Policy Studies in Washington, D.C. I have testified before Congress and state regulatory agencies on a number of occasions, and have participated in a large number of FCC and state regulatory proceedings. I have an undergraduate degree in electrical engineering from Case Institute of Technology and a master's degree in industrial management from Purdue University.
4. Through my education, training, and experience, I have gained an appreciation and understanding of the telecommunications industry in the United States, and in the evolution and development of advanced forms of local networks being deployed by the local exchange carriers and cable television companies for the delivery of video services to the home. More specifically, I am familiar with the broadband networks that are being considered or deployed for the provision of Video Dialtone ("VDT") services. I am also familiar with the VDT "214 applications" and the relevant tariff filings that have been submitted to the FCC by various RBOCs for the provision of VDT services.
5. On May 26, 1995, I received a letter from Jeffrey Hops, Director of Government Relations of the Alliance for Community Media ("Alliance"). In the letter, Mr. Hops stated that the Alliance had been informed that lobbyists from one or more of the Regional Bell Operating Companies ("RBOCs") had asked for a change in the language of S. 652, the "Telecommunications Competition and Deregulation Act of 1995," as it emerged from the Senate Commerce Committee markup. The letter went on to state that the RBOC representatives had asked the Senate to consider an amendment to the Committee Report, to mandate that so-called "incremental-cost based rates" be offered to only a small fraction of the public, educational, and governmental ("PEG") access centers in a VDT operator's region, and to feed these centers' programming to all their service area customers.

6. Mr. Hops' letter noted that the RBOCs in question have stated that it is technologically unfeasible and/or financially prohibitive for them to set up a VDT service region on any smaller scale than a state-wide or region-wide basis, potentially encompassing hundreds of franchise areas. According to the letter, these RBOCs argue that since they will be delivering hundreds of channels simultaneously to each home, the requirement to provide incremental-cost based access to each PEG center in the service area will mean that PEG channels could potentially occupy most of their capacity. The letter went on to state that, when the Alliance noted that the PEG centers were only seeking access in a geographic region identical to the franchise area (rather than the whole system), the RBOCs restated their technological and pecuniary objections to delivering signals to customers on anything less than a state-by-state or regional basis.

7. Mr. Hops' letter on behalf of the Alliance stated that, while they believed the objections of the RBOCs to be without merit, they lacked the technological expertise to adequately assess the validity of the claims. The letter closed by asking me to prepare an analysis of the claims on their behalf. This declaration presents the results of my analysis. It was prepared on a pro bono basis, i.e., without compensation -- direct or indirect.

8. In assessing the RBOC claims, I would first note that 214/tariff applications that have been filed with the FCC for VDT services encompass service areas significantly less than one state and typically involve a suburb or portion of a metropolitan area. Thus I would conclude that the distribution of PEG channels on less than a state-wide basis is clearly feasible from a technical standpoint.

9. More fundamentally, I would note that the Hybrid Fiber/Coax ("HFC"), fiber-to-the-curb ("FTTC"), and fiber-to-the-home ("FTTH") systems that are being evaluated and/or deployed by the RBOCs involve the use of high capacity fiber optic lines from a hub to a node located near or at the customer's premises. Depending upon the aggressiveness of the systems in terms of fiber deployment, each of the nodes may serve from several hundred homes, to a handful of subscribers (in the case of FTTC), to a single customer in the case of FTTH. The hub itself may be located at a telephone company Central Office or in a Controlled Environment Vault (CEV) located nearer the customer. The point is that these nodes (which contain the electronic circuitry to, among other things, change the optical signal on the fiber to an electrical signal on coax/copper facilities) serve geographic areas which are much smaller than existing franchise areas and the areas served by a single telephone company Central Office or wire center -- i.e., to areas encompassing a few hundred homes or less. Thus, it is a straight-forward process to insert local PEG channels onto only those hub-to-node fiber links that, in the aggregate, approximate the existing coverage area of the PEG access center(s). Thus an individual PEG channel need not consume capacity outside the franchise area.

10. I should note that the local exchange carriers and cable television companies are taking advantage of these architectures to deliver (or proposing to deliver) different programming and advertising content to different areas within a franchise area or region. Because each small area (or even an individual apartment complex) is served by a single node with separate connections to the hub, the collection of channels delivered can be varied. For example, the collection of channels

delivered to a node serving a singles complex can be different than those delivered to a retirement complex. This permits the delivery of not only more tailored programming, but more tailored advertising as well. It permits, say, a local hardware store, pizza parlor or car dealership to purchase ads that are inserted in programs going to only those residential areas containing potential customers. This hybrid fiber-coax network architecture is illustrated in Attachment 1 which is drawn from a recent Bell Atlantic filing at the FCC. It clearly shows how signals from different sources (including local off-the-air signals) are picked up at the broadband network interface (or hub as I have called it) and distributed to remote optical nodes (or simply nodes) which serve a group of houses. Clearly, one of the signals that could be distributed locally (and only locally) would be the area's PEG channels.

11. Further evidence that the distribution of programs to individual franchise or even smaller areas is produced by Bell Atlantic's well publicized Video Dialtone Service proposed for Dover Township, New Jersey. It is employing the FTTC architecture and is capable of delivering 384 channels of video capacity. In its tariff filing dated January 27, 1994, Bell Atlantic proposes to provide both "Broadcast Service Channels" and "Narrowcast Service Channels" in the Dover Township service area. In the tariff filing (page 1-4), Bell Atlantic states that the service area is segmented into cells, each of which serves approximately 290 end-user subscribers. The broadcast service channel provides for the transport of one or more video signal to all end-user subscribers in all cells within the service area. Narrowcast service allows the programmer-customer (the vendor providing the video programming) to only serve those cells that he or she selects.

12. Two conclusions are immediately apparent from the descriptions of the RBOC network architectures/services described in paragraphs 8 through 11 above. First, the overall service areas being proposed (and implemented) are much less than state-wide. In the case of Bell Atlantic's service in New Jersey, its tariff encompasses a few Central Office areas within a single township. Second, the architecture being proposed and deployed allows different signals to be selectively delivered to areas (or cells as Bell Atlantic calls them) encompassing only a few hundred homes. In the case of Bell Atlantic, the areas encompass under 300 homes. Thus, if the PEG franchise area encompassed a larger area, say Dover Township, it could be carried just in that area, not the whole state. On the other hand, if it covered less than the entire service area (i.e., the Dover Township) it could be carried in just those cells that approximate the franchise area.

13. Finally, I would note that the ultimate vision of the telecommunications platform of the future is a switched, interactive, broadband network. In such an environment, individual end-user customers will be able to, in effect, "dial up" channels on an on-demand basis and only the channels currently being viewed would have to be delivered to the individual residence. In such a world, capacity becomes virtually unlimited and the ability to carry PEG channels becomes a non-issue. In fact, in such a world, with the Intelligent Network features and functions that are being built into the system today, the network could, based upon the location of the caller, automatically route the call to the local PEG channel.

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14. Based upon the above, I conclude that any RBOC objections to delivering PEG (or other signals) to customers on anything less than a state-by-state basis is without merit.

I declare under penalty of perjury that the above is true and correct. Signed the 2nd day of June, 1995, in Boulder, Colorado.

Dale N. Hatfield
Dale N. Hatfield